

### REMARKS

This responds to the Final Office Action dated November 17, 2008.

Claims 1 to 12 are amended, no claims are canceled, and no claims are added; as a result, claims 1 to 12 are now pending in this application.

#### Double Patenting Rejection

Claims 1 - 12 were rejected under a non-statutory double patenting rejection, specifically over claims 1-5 of U.S. Patent No. 7,079,176, in view of Wolzien (U.S. Patent No. 5,761,606). Applicant does not admit that the claims are obvious in view of U.S. Patent No. 7,079,176, in view of Wolzien (U.S. Patent No. 5,761,606). However, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate these rejections.

Claims 1-12 were rejected under a non-statutory double patenting rejection, specifically over claims 1-5 of co-pending Application with Serial No. 10/126,480, in view of Wolzien (U.S. Patent No. 5,761,606). Applicant does not admit that the claims are obvious in view of co-pending Application with Serial No. 10/126,480, in view of Wolzien (U.S. Patent No. 5,761,606). However, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate these rejections.

#### § 103 Rejection of the Claims

Claims 1-4 and 8-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bennett (U.S. Patent No. 5,068,733) in view of Harper et al. (U.S. Patent No. 5,585,858) and further in view of Wolzien (U.S. Patent No. 5,761,606).

Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bennett (U.S. Patent No. 5,068,733) in view of Harper et al. (U.S. Patent No. 5,585,858) and further in view of Wolzien (U.S. Patent No. 5,761,606) as applied to claim 1, and in further view of Wachob (U.S. Patent No. 5,231,494).

Claims 1-4 and 8-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bennett (U.S. Patent No. 5,068,733) in view of Hoarty (U.S. Patent No. 5,412,720) in further

view of Barstow et al. (U.S. Patent No. 5,189,630) and further in view of Wolzien (U.S. Patent No. 5,761,606).

Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bennett (U.S. Patent No. 5,068,733) in view of Hoarty (U.S. Patent No. 5,412,720) in view of Barstow et al. (U.S. Patent No. 5,189,630) and further in view of Wolzien (U.S. Patent No. 5,761,606) as applied to claim 1, and in further view of Wachob (U.S. Patent No. 5,231,494).

Applicants have amended the claims of the present application to focus on one of several novel ideas presented in the present application. Specifically, the Applicants have amended the claims to refer to the feature wherein the system may present the viewer with an interrogatory when an interactive program begins or when a viewer first tunes into the interactive program. The interrogatory consists of a set of questions presented to the viewer that will allow the system to customize the interactive program to the viewer's preference. Support for the amendment may be found in the second paragraph on page 36 of the written specification where, by way of example, it is disclosed how the system may present an interrogatory to a viewer. The first lines on page 34 disclose, by way of example, how an interrogatory is presented at the beginning of a program or when a user first tunes into a program.

The cited references do not disclose any system, as claimed, that presents users with an interrogatory in order to have a user select specific preferences relative to an interactive program. This feature is present in all of the independent claims and thus all of the amended claims are allowable over the cited references. Notification of allowance is respectfully requested.

**CONCLUSION**


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4041 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 2/17/2009

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3

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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 17, 2009.

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Signature